



W.P(MD)No.26347 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.11.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.26348 of 2023

L.Muniyandi

... Petitioner

Vs.

1.The District Collector,
Sivagangai District, Sivagangai.

2.The Tahsildar, Sivagangai Taluk,
Sivagangai.

3.The Block Development Officer
(Village Panchayats),
Sivagangai Panchayat Union,
Sivagangai.

4.The President,
Padamathur Village,
Sivagangai District,
Sivagangai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Mandamus, forbearing the respondents No.3 and 4 and their officials from in any manner preventing the petitioner to use 15 feet width of land as pathway on



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Eastern Side of the Government Poramboke land classified as burial ground in Survey No.29/2 so as to reach the petitioner's agricultural land comprised in Survey No.29/1B situated at Padamathur Village, Sivagangai District on the basis of the proceeding of the 2nd respondent in O.Mu.A1/3445/2023 dated 08.08.2023.

For Petitioner : Mr.J.Lawrance

For Respondents : Mr.S.RA.Ramachandran
Additional Government Pleader
for R.1 and R2

Mr.B.Saravanan,
Additional Government Pleader
for R3 and R4

ORDER

Heard the learned counsel on either side.

2.The petitioner wants the respondents to earmark the 15 feet width pathway in Survey No.29/3 situated at Padamathur Village, Sivagangai District. In the revenue record, it has been classified as "cremation ground". It is not open to the petitioner to demand creation of pathway as a matter of right. In any event, the petitioner had already filed WP (MD)No.18836 of 2021 on the same cause of action. The writ petition was disposed of on 06.01.2022 in the following terms :



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"4.Let the petitioner and the respondents conduct a survey of the said land and demarcate the particular area, which is shown in the revenue records as a burial ground. That portion alone may be used for construction of burial ground and if there is excess land, the petitioner may continue to occupy that particular land. This can be decided by the respondents and the petitioner, after conducting a survey. If there is no available land, then the petitioner is directed to workout his remedy elsewhere.

5.5.The entire exercise must be conducted jointly by the petitioner and the concerned respondents within a period of twelve weeks from the date of receipt of a copy of the order."

Alleging that the direction given by this court was not complied with, the petitioner filed Cont P(MD)No.1437 of 2022. The contempt petition was closed in the following terms :

"2.When the matter is taken up for hearing today, the learned Additional Government Pleader appearing for the respondents would submit that they have already measured the property in S.No.29/1B situated at Padamathur Village, Sivagangai District in the



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presence of the petitioner and found that there is no way to reach the petitioner's land, because it was surrounded by other land.

3.In view of the above, there is no wilful disobedience on the part of the respondents. Hence, this Contempt Petition is closed. If the petitioner is not satisfied, he can work out the remedy by purchasing the land from third party.”

3.In these circumstances, this present writ petition is not maintainable. It stands dismissed. No costs.

03.11.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
SKM

To

- 1.The District Collector, Sivagangai District, Sivagangai.
- 2.The Tahsildar, Sivagangai Taluk, Sivagangai.
- 3.The Block Development Officer (Village Panchayats),
Sivagangai Panchayat Union, Sivagangai.
- 4.The President, Padamathur Village, Sivagangai District.

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G.R.SWAMINATHAN, J.

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